

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNIVERSITAS EDUCATION, LLC,)	
)	
Petitioner/Judgment Creditor,)	
)	
v.)	Case No. 14-FJ-05-HE
)	
NOVA GROUP, INC.,)	
)	
Respondent/Judgment Debtor,)	
)	
AVON CAPITAL, LLC,)	
)	
Respondent/Judgment Debtor,)	
)	
ASSET SERVICING GROUP, LLC,)	
)	
Respondent/Garnishee,)	
)	
SDM HOLDINGS, LLC,)	
)	
Respondent/Garnishee,)	
)	
and)	
)	
AVON CAPITAL, LLC, a Wyoming Limited)	
Liability Company,)	
)	
Intervenor.)	

**RECEIVER’S MOTION FOR AUTHORIZATION TO OBTAIN
LOANS AGAINST CERTAIN POLICIES, IF NECESSARY,
FOR PAYMENT OF PREMIUMS AND EXPENSES**

COMES NOW the Receiver, Ryan Leonard, and moves the Court for authority to instruct the Manager of SDM to make application for and obtain loans against certain policies owned by SDM Holdings, LLC (“SDM”) in an amount up to \$300,000.00 for the

payment of ongoing premiums and expenses, in the event the Receiver deems such action necessary. In support of this Motion, the Receiver states as follows:

1. On September 22, 2021, this Court entered an Order appointing a Receiver for Avon Capital LLC, a Wyoming limited liability company (“Avon Capital”) [Doc. No. 311].

2. Consistent with representations made by Avon Capital to this Court prior to the institution of the receivership (*see* [Doc. No. 56], p. 2), the Court has repeatedly held that SDM is the sole asset of and wholly owned by Avon Capital. *See* [Doc. No. 310], p. 2.

3. SDM is the named beneficiary of 339 in-force life insurance policies whose face values total approximately \$20 million. For a number of years, SDM has engaged Asset Servicing Group, L.L.C., an Oklahoma limited liability company (“ASG”), to actively manage its portfolio of insurance policies. ASG’s management activities include paying policy premiums on a monthly, quarterly or annual basis, receipt and management of dividends, making payments on loans borrowed against policies, monitoring the status of insureds, working with SDM’s Manager to process maturities as they come due and all other activities associated with managing and keeping the policies in force. ASG is also a signatory on SDM’s bank account at Kirkpatrick Bank, through which ASG initiates payment of all premiums and expenses.

4. Upon information and belief, since at least 2009, as the need has periodically arisen, SDM has authorized ASG to review its portfolio to identify certain policies (generally whole life policies) that have a “net cash surrender” value sufficient to borrow

sums against from the issuing insurance carrier for the payment of ongoing premiums and expenses. ASG's standard practice is to contact a carrier via fax inquiring as to the capacity for a possible loan against a subject policy, and the carrier responds generally within a matter of days with information as to how much borrowing capacity there may be on a particular policy. It is important that loans against policies are prudently taken so as to avoid a situation where any policy goes into "overloan" status, which can trigger a policy termination. Upon information and belief, obtaining loans against individual policies within a portfolio of life insurance policies to pay ongoing premiums and expenses is standard practice within the industry, and is a practice SDM has engaged in on numerous occasions during the period in which ASG has managed its portfolio. With respect to obtaining loans against policies, ASG's services include assisting with identifying individual policies where borrowing capacity may exist, making application to the insurance carrier for a loan in a stated amount, obtaining the borrowed funds and depositing them into SDM's bank account at Kirkpatrick Bank, and then paying interest on the loans.

5. Of SDM's 339 policies currently in force, 145 policies (all but 3 of which are whole life policies) already have active loan balances in varying amounts against them (these loans that were taken out by SDM in the years prior to the receivership). As of April 4, 2023, the current collective loan balance against all 145 policies is \$2,274,238.20. However, the collective "net cash surrender" value of the policies, which roughly equates to the remaining amount of borrowing capacity against the policies as a whole, is approximately \$1,681,866.57. As a result, ample capacity exists to borrow additional funds from certain policies if the need arises to pay premiums and expenses. Policy maturities

and the receipt of proceeds, of course, obviates the need to borrow against policies in the portfolio.

6. In this regard, SDM's projected premiums for the next 9 months are:

April	\$37,310.70
May	\$42,751.93
June	\$52,573.13
July	\$33,999.87
August	\$47,844.48
September	\$36,423.25
October	\$47,724.84
November	\$45,308.06
December	\$50,674.11

7. In addition, SDM incurs on average the following monthly expenses payable to ASG (based upon an average of expenses from the previous 6 months):

ASG Administration Fee	\$13,632.79
ASG's legal fees	\$1,632.75
Medical Records Requests	\$56.17
Postage/Shipping	\$92.16
Death Benefit Processing	\$344.53

Average Total ASG Monthly Expense	\$15,769.40
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In addition to fees paid to ASG, SDM incurs a monthly Manager fee (\$2000/month) and the Receiver's expenses (including legal fees paid to the Receiver's counsel Heidi Long) of approximately \$4,890.37/month (based upon a 4-month average of the Receiver's fees and expenses from December 2022 through March 2023).

8. SDM's average monthly expenses total \$22,659.77.

9. To provide additional perspective, at the institution of the receivership in September 2021, the balance of available funds in SDM's bank account at Kirkpatrick Bank was approximately \$600,000.00. During the pendency of the receivership, 17 policies in SDM's portfolio have matured paying benefits totaling \$801,547.05. Since January 1, 2023, SDM has received proceeds from two policy maturities totaling \$64,765.76. All funds obtained from maturities have been used to pay premiums and monthly expenses in the normal course as identified herein.

10. As of April 17, 2023, SDM has \$142,183.40 in funds to pay premiums and expenses in its account at Kirkpatrick Bank. If maturities are not realized in the immediate future, funds appear to be sufficient to cover premiums and expenses for May and likely June 2023.

11. However, in an abundance of caution and for the purpose of avoiding the termination of any policy for non-payment of premiums, the Receiver believes it is prudent to request authority to instruct SDM's manager to request that ASG begin its review of SDM's portfolio of policies for the purpose of identifying particular policies where

borrowing capacity (or further borrowing capacity) may exist. Once identified, and barring the receipt of proceeds from a policy maturity (or maturities) in the meantime, the Receiver seeks authority to instruct the Manager of SDM to work with ASG to make application to obtain loans from those carriers that offer the most advantageous rates in the collective sum of up to \$300,000.00, which would be an amount sufficient to pay approximately the next four (4) months of premiums and expenses. In the event maturities are realized in the interim sufficient to pay premiums and expenses for a reasonable period, the Receiver would either reduce or (if possible) eliminate the request for the loans.

12. The Receiver has attempted to work with all interested parties to obtain any input they may have on other options that might exist to pay SDM's ongoing premiums and expenses, and as to what constitutes a reasonable amount of loans to be taken against policies in the event that becomes necessary. In response to a request made to counsel representing all parties (and otherwise interested parties) on March 21, 2023, counsel Jeff Sandberg responded that the Receiver "can ask Universitas to fund the receivership." In a subsequent request concerning the parties' (and interested parties') position on the authority sought through the instant Motion, both Mr. Sandberg and Alan Rupe, counsel for Avon Capital, LLC (Wyoming)(though not the Receiver's counsel) stated that they object to the Receiver's Motion. Petitioner Universitas Education, LLC consents to this Motion.

13. **RELIEF REQUESTED:** The Receiver accordingly requests authority to instruct the Manager of SDM to identify policies within the SDM portfolio where borrowing capacity may prudently exist and, if the Receiver deems it necessary, make

application to obtain such loan(s) in an amount up to \$300,000.00 to pay ongoing premiums and expenses.

DATED: April 21, 2023

Respectfully submitted,

s/ Ryan Leonard

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RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2023, I electronically transmitted the attached document to the Clerk of Court using the Electronic Case Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

s/ Ryan Leonard

Ryan Leonard